United States Department of Labor Employees' Compensation Appeals Board

M.L., Appellant)
and) Docket No. 20-1176
DEPARTMENT OF HOMELAND SECURITY,) Issued: April 29, 2021
U.S. CUSTOMS & BORDER PROTECTION, DULLES INTERNATIONAL AIRPORT,)
Sterling, VA, Employer)
Appearances: Appellant, pro se	Case Submitted on the Record
Office of Solicitor, for the Director	

ORDER REMANDING CASE

Before: ALEC J. KOROMILAS, Chief Judge JANICE B. ASKIN, Judge PATRICIA H. FITZGERALD, Alternate Judge

On April 20, 2020 appellant filed a timely appeal from a March 6, 2020 merit decision of Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 20-1176.¹

On November 7, 2019 appellant, then a 49-year-old canine (K-9) supervisor, filed an occupational disease claim (Form CA-2) alleging that he developed left hand numbness, tingling, and pain due to factors of his federal employment, including daily use of a computer and working and training K-9s.² He indicated that he had an accepted left shoulder injury under OWCP File

¹ The Board notes that, following the March 6, 2020 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

² OWCP assigned the present claim File No. xxxxxx848.

No. xxxxxx609.³ Appellant noted that he first became aware of his hand condition and its relation to his federal employment on October 5, 2017. He stopped work on July 12, 2019.

In a January 22, 2020 development letter, OWCP advised appellant of the deficiencies of his claim. It requested additional factual and medical evidence and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

By decision dated March 6, 2020, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish that the alleged work factors occurred as described.

The Board, having duly considered the matter, finds that this case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files.⁴ For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition or the same part of the body, doubling is required.⁵ Herein, appellant's claim under OWCP File No. xxxxxx609 also involves an injury to his left shoulder. For a full and fair adjudication, the case must be returned to OWCP to administratively combine the current case record with OWCP File No. xxxxxxx609. This will allow OWCP to consider all relevant claim files and accompanying evidence in developing appellant's current occupational disease claim. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

³ OWCP File No. xxxxxx609 was accepted for derangement of the left acromioclavicular (AC) joint.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

⁵ *Id.*; *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No 18-1777 (issued July 2, 2019).

IT IS HEREBY ORDERED THAT the March 6, 2020 decision of Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: April 29, 2021 Washington, DC

> Alec J. Koromilas, Chief Judge Employees' Compensation Appeals Board

> Janice B. Askin, Judge Employees' Compensation Appeals Board

> Patricia H. Fitzgerald, Alternate Judge Employees' Compensation Appeals Board